

COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

BECK PAINT & HARDWARE, INC.	:	
	:	Case No. A1701848
718 E. McMillan St.	:	
Cincinnati, OH 45206	:	Judge: J. Patrick Foley III
	:	
Plaintiff,	:	
	:	
v.	:	
	:	
THE TRAVELERS INDEMNITY	:	FIRST AMENDED COMPLAINT
COMPANY	:	WITH JURY DEMAND
	:	
One Tower Square	:	
Hartford, CT 06183	:	
	:	
Defendant.	:	

FIRST AMENDED COMPLAINT

For its First Amended Complaint against Defendant, The Travelers Indemnity Company (“Defendant”), Plaintiff, Beck Paint & Hardware, Inc. (“Plaintiff”), hereby states as follows:

FACTS

1. At all times material, Plaintiff, Beck Paint & Hardware, Inc. (“Plaintiff” or “Beck”), was and is a company resident in Ohio, whose principal place of business is at 718 E. McMillan St., Cincinnati, Ohio 45206 (“the insured premises”).

2. At all times material, Defendant, The Travelers Indemnity Company (“Travelers”), was and is a Connecticut corporation with its principal place of business in Hartford, Connecticut.

3. Venue and subject matter jurisdiction are proper in this Court because the insured premises are in Hamilton County, Ohio and a substantial part of the events or omissions giving rise to Beck’s claims occurred in Hamilton County, Ohio. Additionally, Travelers does business

and/or transacts business in Hamilton County, Ohio and, therefore, is subject to personal jurisdiction in Hamilton County, Ohio.

4. Travelers, which is licensed to do insurance business in Ohio, issued to Beck in Ohio a commercial property insurance policy, effective February 22, 2016 through February 22, 2017, policy number 680-177J2203 (“the insurance policy”), a copy of which was attached to the Complaint as Exhibit A.

5. Under the Businessowners Property Coverage Special Form of the insurance policy, Travelers insured against direct physical loss of or damage to Beck’s real property and business personal property at the insured premises caused by a covered cause of loss, including collapse from weight of rain and ensuing damage to both the exterior and interior of the building structure.

6. Under the Businessowners Property Coverage Special Form of the insurance policy, Travelers agreed to replace damaged or destroyed real and business personal property with like kind and quality.

7. On or about August 28, 2016, while the insurance policy was in full force and effect, the insured premises was damaged by collapse from weight of rain and ensuing interior water damage (“the collapse loss”).

8. Beck duly submitted a claim to Travelers under the insurance policy for its loss and damage from this covered collapse peril.

9. Beck has substantially performed all conditions required by the insurance policy, including giving Travelers prompt notice of the collapse loss, paying the premium for the coverages afforded by the insurance policy and endorsements thereto, and otherwise cooperating with Travelers in its claim investigation.

10. As a result, it is Travelers' duty to pay Beck for all of its loss and damage, pursuant to the terms and conditions of the insurance policy sustained as a result of this covered collapse loss.

11. Although requested to do so, Travelers failed, refused, and continues to fail and refuse to pay Beck for all its covered collapse and ensuing losses and damages as provided for in the insurance policy.

COUNT I
(Breach of Contract)

12. Beck re-alleges paragraphs 1 through 11 of the Facts as paragraph 12 of Count I of the Complaint.

13. Travelers' failure to pay Beck for all of its insured loss and damage resulting from the covered collapse is a breach of the insurance policy.

14. This breach of the insurance policy was and is the direct and proximate cause of damage to Beck in an amount in excess of \$25,000.

WHEREFORE, Plaintiff, Beck Paint & Hardware, Inc., prays that this Court enter judgment in its favor and against Defendant, The Travelers Indemnity Company, in an amount in excess of \$25,000, plus prejudgment interest and costs.

COUNT II
(Bad Faith)

15. Beck re-alleges paragraphs 1 through 14 of Count I of the Complaint as paragraph 15 of Count II of the Complaint.

16. Ohio law required Travelers to act in good faith in handling and paying the claim submitted by Beck.

17. Travelers breached its duty to Beck of good faith claim handling and payment in one or more of the following respects in that, without reasonable justification, it: (a) failed to thoroughly, fairly, and objectively investigate Beck's collapse; (b) failed to pay for the costs to replace all of the loss and damage to Beck's building and building personal property; (c) failed to effectuate a prompt, fair, and equitable settlement of Beck's collapse loss; and (d) forced Beck to retain legal counsel to investigate the loss and claim and to prosecute this lawsuit to recover all of the benefits that should have been immediately forthcoming under the insurance policy.

18. As a direct and proximate cause of Travelers' breach of its duty of good faith claim handling and payment, which constitutes bad faith, Beck has suffered economic harm, including, but not limited to, attorney fees.

WHEREFORE, Plaintiff, Beck Paint & Hardware, Inc., prays for an award of compensatory damages, reasonable attorneys' fees, litigation costs, damages for emotional distress, punitive damages, and pre-judgment interest, in its favor and against Defendant, The Travelers Indemnity Company.

Respectfully submitted,

/s/ Frederic X. Shadley

Frederic ("Fritz") X. Shadley (0028584)

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JURY DEMAND

Plaintiff hereby demands a trial by jury in all matters triable to a jury in this case.

/s/ Frederic X. Shadley

Frederic ("Fritz") X. Shadley

CERTIFICATE OF SERVICE

The foregoing document was served via first class mail on the 18th day of April 2017
upon:

THE TRAVELERS INDEMNITY COMPANY
One Tower Square
Hartford, CT 06183
Defendant

s/ Frederic X. Shadley
Frederic X. Shadley

CIN2000 2335126v1
42259.00000

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

BECK PAINT & HARDWARE, INC.,

Plaintiff,

V

**THE TRAVELERS INDEMNITY
COMPANY,**

Defendant.

Case No. 1:17-CV-00307-TSB

Hon. Timothy S. Black

Magistrate Stephanie K. Bowman

CERTIFICATE OF SERVICE

I hereby certify that on May 31, 2017, I electronically filed: ***First Amended Complaint with Jury Demand and this Certificate of Service*** with the Clerk of the Court using the ECF system which will send notification of such filing to the following:

Frederic X. Shadley
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Attorney for Plaintiff

s/ Kurt D. Meyer

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